



Meeting of States Parties

Distr.: General
8 April 2004

Original: English

Fourteenth meeting
New York, 14-18 June 2004

Annual report of the International Tribunal for the Law of the Sea for 2003

Presented by the Registrar

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I. Introduction

1. The present report of the International Tribunal for the Law of the Sea is submitted to the Meeting of States Parties under rule 6, paragraph 3 (d), of the Rules of Procedure for Meetings of States Parties and covers the period from 1 January to 31 December 2003.
2. The Tribunal was established by the 1982 United Nations Convention on the Law of the Sea (hereinafter "the Convention"). It functions in accordance with the relevant provisions of Part XV and Part XI of the Convention, the Statute of the Tribunal (hereinafter "the Statute"), as contained in annex VI to the Convention, and the Rules of the Tribunal (hereinafter "the Rules").
3. The Tribunal is composed of 21 members, elected by the States Parties to the Convention in the manner provided for by article 4 of the Statute.
4. As of 31 December 2003, the composition of the Tribunal was as follows:

<i>Order of precedence</i>	<i>Country</i>	<i>Date of expiry of term of office</i>
<i>President</i>		
L. Dolliver M. Nelson	Grenada	30 September 2005
<i>Vice-President</i>		
Budislav Vukas	Croatia	30 September 2005
<i>Judges</i>		
Hugo Caminos	Argentina	30 September 2011
Vicente Marotta Rangel	Brazil	30 September 2008
Alexander Yankov	Bulgaria	30 September 2011
Soji Yamamoto	Japan	30 September 2005
Anatoly Lazarevich Kolodkin	Russian Federation	30 September 2008
Choon-Ho Park	Republic of Korea	30 September 2005
Paul Bamela Engo	Cameroon	30 September 2008
Thomas A. Mensah	Ghana	30 September 2005
P. Chandrasekhara Rao	India	30 September 2008
Joseph Akl	Lebanon	30 September 2008
David Anderson	United Kingdom	30 September 2005
Rüdiger Wolfrum	Germany	30 September 2008
Tullio Treves	Italy	30 September 2011
Mohamed Mouldi Marsit	Tunisia	30 September 2005
Tafsir Malick Ndiaye	Senegal	30 September 2011

<i>Order of precedence</i>	<i>Country</i>	<i>Date of expiry of term of office</i>
José Luis Jesus	Cape Verde	30 September 2008
Guangjian Xu	China	30 September 2011
Jean-Pierre Cot	France	30 September 2011
Anthony Amos Lucky	Trinidad and Tobago	30 September 2011

5. The Registrar is Philippe Gautier (Belgium) and the Deputy Registrar is Doo-young Kim (Republic of Korea).

II. Organization of the Tribunal

A. Changes in the composition of the Tribunal

6. Acting pursuant to article 6, paragraph 1, of the Statute, the Registrar, in a note verbale dated 24 April 2003, informed States Parties of the vacancy which had occurred in the Tribunal because of the death of Judge Lennox Fitzroy Ballah and invited Governments of States Parties to submit by 29 June 2003 the names of candidates they might wish to nominate for election as member of the Tribunal. In that note verbale, the Registrar informed States Parties that the member elected to replace Judge Ballah would serve until 30 September 2011.

7. By the same note verbale, the Registrar informed States Parties that the President of the Tribunal, after consultation with the President of the Meeting of States Parties, had proposed to have the election held on 2 September 2003 and invited States Parties to communicate their comments. Since no comments were received, the Registrar, by a note verbale dated 7 July 2003, informed the States Parties that the election to fill the seat vacated by Judge Ballah for the remainder of his term would be held on 2 September 2003. In accordance with article 4, paragraph 2, of the Statute, a list of candidates nominated by States Parties was prepared by the Registrar and submitted to States Parties as document SPLOS/105.

8. On 2 September 2003, a special Meeting of States Parties was convened and elected Mr. Lucky to serve as member of the Tribunal until 30 September 2011.

B. Solemn declaration

9. Pursuant to article 11 of the Statute, every member of the Tribunal is required, before taking up his duties, to make a solemn declaration that he will exercise his powers impartially and conscientiously. The declaration is to be made at the first public sitting at which the member is present.

10. The solemn declaration provided for in article 5 of the Rules was made by Judge Lucky at a public sitting of the Tribunal on 8 September 2003.

III. Chambers

A. Seabed Disputes Chamber

11. In accordance with article 35, paragraph 1, of the Statute, the Seabed Disputes Chamber consists of 11 judges selected by the members of the Tribunal from among themselves. The members of the Chamber are selected triennially. During 2003, a vacancy occurred in the Seabed Disputes Chamber because of the death of Judge Ballah, who had been a member of the Chamber. Article 35, paragraph 6, of the Statute provides that if a vacancy occurs in the Chamber, the Tribunal selects a successor from among its elected members, who will hold office for the remainder of his predecessor's term. At its sixteenth session, the Tribunal selected Judge Lucky to fill the vacancy. Allowing for this change, the composition of the Chamber, in order of precedence, is as follows: Judge Marsit, President; Judges Caminos, Yankov, Park, Mensah, Chandrasekhara Rao, Anderson, Jesus, Xu, Cot and Lucky, members.

12. The term of office of the members of the Chamber expires on 30 September 2005.

13. During the period under review, the members of the Seabed Disputes Chamber exchanged views on the question of contributions to the expenses of the Tribunal relating to cases brought before the Chamber by an entity other than a State Party or the International Seabed Authority. With respect to the contributions by the Authority, the Chamber noted that the Meeting of States Parties shall decide the terms and manners by which such contributions shall be made.

B. Special chambers

1. Chamber of Summary Procedure

14. The Chamber of Summary Procedure is established in accordance with article 15, paragraph 3, of the Statute and consists of five members and two alternates. In accordance with article 28 of the Rules, the President and the Vice-President of the Tribunal are ex officio members of the Chamber, with the President of the Tribunal serving as President of the Chamber. The Chamber is constituted annually.

15. During the sixteenth session of the Tribunal, on 16 September 2003, the Chamber was constituted for the period from 1 October 2003 until 30 September 2004. The members of the Chamber, in order of precedence, are as follows: President Nelson; Vice-President Vukas; Judges Park, Treves and Ndiaye, members; Judges Anderson and Lucky, alternates.

2. Chamber for Fisheries Disputes

16. The Chamber for Fisheries Disputes, established in accordance with article 15, paragraph 1, of the Statute, consists of seven members. As decided by the Tribunal, the members of the Chamber are selected for a three-year term.

17. The composition of the Chamber for Fisheries Disputes, in order of precedence, is as follows: Judge Caminos, President; Judges Yamamoto, Kolodkin, Park, Wolfrum, Ndiaye and Jesus, members.

18. The term of office of the members of the Chamber expires on 30 September 2005.

3. Chamber for Marine Environment Disputes

19. The Chamber for Marine Environment Disputes, established in accordance with article 15, paragraph 1, of the Statute, consists of seven members. As decided by the Tribunal, the members of the Chamber are selected for a three-year term.

20. The composition of the Chamber, in order of precedence, is as follows: Judge Treves, President; Judges Marotta Rangel, Yankov, Bamela Engo, Akl, Anderson and Xu, members.

21. The term of office of the members of the Chamber expires on 30 September 2005.

4. Chamber under article 15, paragraph 2, of the Statute

22. Pursuant to article 15, paragraph 2, of the Statute, the Tribunal shall form a chamber for dealing with a particular dispute, if the parties so request. The composition of such a chamber is determined by the Tribunal with the approval of the parties in the manner provided for in article 30 of the Rules.

23. By Order dated 20 December 2000, the Tribunal formed a Special Chamber of five judges to deal with a dispute between Chile and the European Community concerning the conservation and sustainable exploitation of swordfish stocks in the South-Eastern Pacific Ocean. This was the first time that a case had been submitted to a special chamber of the Tribunal.

24. By separate letters dated 19 December 2000, Chile, in exercise of its right under article 17 of the Statute, notified its choice of Mr. Orrego Vicuña as judge ad hoc and the European Community confirmed this choice.

25. The composition of the Special Chamber to deal with the case is as follows: Judge Chandrasekhara Rao, President; Judges Caminos, Yankov and Wolfrum and Judge ad hoc Orrego Vicuña, members.

IV. Meetings of the Tribunal

26. During the period under review, the Tribunal held two sessions devoted essentially to administrative matters and legal matters not directly related to cases. The Fifteenth Session of the Tribunal was held from 10 to 21 March 2003 and the Sixteenth Session from 8 to 19 September 2003. The Tribunal met from 20 September to 8 October 2003 to deal with the *Case concerning Land Reclamation by Singapore in and around the Straits of Johor*. The judicial deliberations in the case were held in conjunction with the Sixteenth Session of the Tribunal.

V. Judicial work of the Tribunal

A. *Case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South-Eastern Pacific Ocean (Chile/European Community)*

27. Following an agreement between Chile and the European Community, the Tribunal, by Order dated 20 December 2000, formed a Special Chamber to deal with a dispute between Chile and the European Community concerning the conservation and sustainable exploitation of swordfish stocks in the South-Eastern Pacific Ocean, and made provision in respect of preliminary objections and for the filing of the written pleadings.¹

28. On 9 March 2001, the parties informed the President of the Special Chamber that they had reached a provisional arrangement concerning the dispute and requested that the proceedings before the Chamber be suspended. By Order of 15 March 2001, the President of the Special Chamber extended the time limit of 90 days for the making of preliminary objections so that it would commence from 1 January 2004.

29. By letters respectively dated 31 October 2003 and 11 November 2003, Chile and the European Community requested that the time limits for the proceedings before the Special Chamber continue to be suspended for a further period of two years and maintained their right to revive the proceedings at any time. Further to the request of the parties, the President of the Special Chamber extended the time limit for making preliminary objections until 1 January 2006, by Order dated 16 December 2003.

B. *Case concerning Land Reclamation by Singapore in and around the Straits of Johor (Malaysia v. Singapore)*

30. On 5 September 2003, a Request for the prescription of provisional measures under article 290, paragraph 5, pending the constitution of an arbitral tribunal to be established under annex VII to the Convention, was submitted to the Tribunal by Malaysia against Singapore in the dispute concerning land reclamation by Singapore in and around the Straits of Johor. The Request was accompanied by a copy of a document dated 4 July 2003, instituting arbitral proceedings against Singapore. The Request was entered in the List of cases as Case No. 12 and named *Case concerning Land Reclamation by Singapore in and around the Straits of Johor*.

31. Pursuant to article 17, paragraph 3, of the Statute, Malaysia nominated Kamal Hossain and Singapore nominated Bernard H. Oxman as judges ad hoc. Mr. Hossain and Mr. Oxman were admitted to participate in the case as judges ad hoc after having made a solemn declaration at a public sitting of the Tribunal held on 24 September 2003.

32. By Order dated 10 September 2003, the Tribunal fixed 25 September 2003 as the date for the opening of the hearing.

33. Singapore filed its Response on 20 September 2003.

34. Prior to the opening of the hearing, the Tribunal held initial deliberations on 24 September 2003.
35. The Tribunal heard oral arguments from the parties at five public sittings held on 25, 26 and 27 September 2003. Final submissions were made by each party at the end of the hearing.
36. On 8 October 2003, the Tribunal delivered its Order in the case.

VI. Other activities

37. In the notification of 4 July 2003 which instituted arbitral proceedings under annex VII to the Convention in a dispute concerning land reclamation by Singapore in and around the Straits of Johor, Malaysia informed Singapore that it had appointed a member of the arbitral tribunal pursuant to annex VII, article 3(b), to the Convention. On 29 July 2003, Singapore appointed a member of the arbitral tribunal pursuant to article 3(c) of the said annex. On 9 September 2003, the President of the Tribunal was requested by the Minister for Foreign Affairs of the Republic of Singapore, in accordance with annex VII, article 3(e), to appoint the other three members and, from among them, the President of the arbitral tribunal. After consultation with the parties and with experts on the list maintained by the Secretary-General of the United Nations pursuant to annex VII to the Convention, the President appointed on 9 October 2003 the three members of the arbitral tribunal and the President of the arbitral tribunal from among these members.

VII. Committees

38. During its sixteenth session, on 16 September 2003, the Tribunal reconstituted its committees for the period ending 30 September 2004.²

A. Committee on Budget and Finance

39. The members of the Committee on Budget and Finance selected on 16 September 2003 are as follows: Judge Akl, Chairman; Judges Yznkov, Mensah, Anderson, Treves, Jesus, Cot and Lucky, members.

B. Committee on Rules and Judicial Practice

40. The members of the Committee on Rules and Judicial Practice selected on 16 September 2003 are as follows: President Nelson, Chairman; Vice-President Vukas; Judges Caminos, Marotta Rangel, Yankov, Yamamoto, Mensah, Chandrasekhara Rao, Akl, Anderson, Treves, Marsit (ex officio) and Ndiaye, members.

C. Committee on Staff and Administration

41. The members of the Committee on Staff and Administration selected on 16 September 2003 are as follows: Judge Wolfrum, Chairman; Judges Caminos, Kolodkin, Bamela Engo, Mensah, Marsit, Xu and Cot, members.

D. Committee on Library and Publications

42. The members of the Committee on Library and Publications selected on 16 September 2003 are as follows: Judge Anderson, Chairman; Vice-President Vukas; Judges Caminos, Marotta Rangel, Kolodkin, Park, Chandrasekhara Rao, Wolfrum, Treves and Ndiaye, members.

E. Committee on Buildings and Electronic Systems

43. The members of the Committee on Buildings and Electronic Systems selected on 16 September 2003 are as follows: Judge Jesus, Chairman; Judges Yankov, Akl, Anderson, Wolfrum and Lucky, members.

VIII. Rules of the Tribunal and supplementary documents

44. During its fifteenth and sixteenth sessions, the Tribunal dealt with legal and judicial matters including a review of the Rules and judicial procedures of the Tribunal. This review was undertaken both in the Committee on Rules and Judicial Practice and in the plenary. In considering such legal and judicial matters, the Tribunal followed closely the developments of the rules of procedure of the International Court of Justice and other international courts or tribunals. Some of the main issues which were considered are as follows:

A. Request for advisory opinions under article 138 of the Rules

45. During its fifteenth session, the plenary of the Tribunal discussed, on the basis of a document prepared by the Registry, the possible interpretations of article 21 of the Statute and article 138 of the Rules, including possible meanings of the terms "agreement", "international agreement" and "body". The plenary also discussed the question of the entities which may be entitled to submit a request for an advisory opinion to the Tribunal.

B. Secrecy of deliberations

46. During the fifteenth and sixteenth sessions, the Committee on Rules and Judicial Practice exchanged views on the matter based on proposals presented by the Registry. At its fifteenth and sixteenth sessions, the Tribunal adopted instructions to the Registry on the subject.

C. Contributions towards the expenses of the Tribunal

47. During the fifteenth and sixteenth sessions, the Committee on Rules and Judicial Practice examined, on the basis of background papers prepared by the Registry, the question of expenses relating to cases brought by an entity other than a State Party or the International Seabed Authority.

48. On the recommendation of the Committee, the Tribunal decided, at its sixteenth session, to continue consideration of this item at its next session.

D. Bonds and other financial security

49. During the fifteenth and sixteenth sessions, the Committee on Rules and Judicial Practice gave consideration to this item on the basis of documents prepared by the Registry and previous reports on the subject.

50. On the recommendation of the Committee, the Tribunal decided, at its sixteenth session, to continue consideration of this item at its next session.

E. Procedure for revision or interpretation of a judgment or order

51. During the fifteenth and sixteenth sessions, the Committee on Rules and Judicial Practice discussed the issue of the procedure to be adopted by the Tribunal in the case of a request for revision or interpretation of a judgment or order made with respect to urgent proceedings before the Tribunal.

52. On the recommendation of the Committee, the Tribunal decided, at its sixteenth session, to continue consideration of this item at its next session.

F. Other matters

53. During the fifteenth and sixteenth sessions, the Committee on Rules and Judicial Practice exchanged views, on the basis of background papers prepared by the Registry, on recent developments regarding the procedural rules of other international courts or tribunals.

54. During the sixteenth session, the Committee on Rules and Judicial Practice considered proposals made by the Registry concerning a revised format for the list of cases.

55. On the recommendation of the Committee, the Tribunal decided, at its sixteenth session, to continue consideration of these items at its next session.

IX. Privileges and immunities

A. General Agreement

56. The Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, adopted by the seventh Meeting of States Parties on 23 May 1997, was deposited with the Secretary-General of the United Nations and opened for signature at United Nations Headquarters for 24 months as from 1 July 1997.³ The Agreement entered into force on 30 December 2001, 30 days after the date of deposit of the tenth instrument of ratification or accession. At the closing date for signature, 21 States had signed the Agreement. As of 31 December 2003, thirteen States had ratified it or acceded to it.

B. Headquarters Agreement

57. During the period under review, negotiations continued with the German authorities on the Headquarters Agreement between the Tribunal and the Federal

Republic of Germany. However, no progress has been made towards concluding the Agreement.

58. Pending the conclusion of a headquarters agreement, an interim ordinance was adopted by the host country,⁴ which applies, *mutatis mutandis*, the relevant provisions of the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947.

X. Relations with the United Nations

A. Observer status in the General Assembly

59. At the sixty-fourth plenary meeting of the fifty-eighth session of the General Assembly, on 24 November 2003, President Nelson delivered a statement under agenda item 52 (a), entitled "Oceans and the law of the sea".⁵

B. Relationship Agreement with the United Nations

60. The Registrar reported to the Tribunal, at its fifteenth and sixteenth sessions, on developments regarding the implementation of the Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea.

XI. Relations with other organizations and bodies

61. During the period under review, administrative arrangements on cooperation were concluded between the Registry of the Tribunal and the following organizations or bodies: the Intergovernmental Oceanographic Commission (IOC) of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Secretariat of the International Seabed Authority, the European Court of Human Rights and the Inter-American Court of Human Rights.

XII. Premises of the Tribunal

62. The terms and conditions under which the premises are made available by the Federal Republic of Germany to the Tribunal are established in the Agreement of 18 October 2000 between the International Tribunal for the Law of the Sea and the Government of the Federal Republic of Germany on the Occupancy and Use of the Premises of the International Tribunal for the Law of the Sea in the Free and Hanseatic City of Hamburg.

63. A meeting between the Registry and the competent German authorities took place on 25 June 2003 to discuss issues regarding the premises of the Tribunal.

XIII. Finances

A. Budget

1. Budget for 2004

64. The budget proposals for 2004, approved by the Tribunal at its fifteenth session, were submitted to the Meeting of States Parties. The proposals, involving an amount of \$8,614,900, were based on an evolutionary approach and guided by the principle of zero growth.

65. The Meeting of States Parties approved the budget in the amount of \$8,039,000. The approved budget provided for recurrent expenditure of \$6,834,800, including \$1,862,100 for the remuneration, travel and pensions of the judges and \$3,276,600 for salaries and related costs of staff, and non-recurrent expenditure of \$95,000. The Meeting of States Parties also approved \$1,109,200 under the part of the budget entitled "Case-related costs", to be used in the event of cases being submitted to the Tribunal. No appropriations were made to the Working Capital Fund and no further appropriations would be made until the Fund had been reduced to 8 per cent of the overall budget of the Tribunal.⁶

2. Budgetary matters for 2003

66. Following the proposal of the Tribunal, the thirteenth Meeting of States Parties authorized the Tribunal, with regard to the budget for 2003, to finance overexpenditures with respect to certain budget lines by transfers between appropriation sections as far as possible and, if necessary, by using savings from the financial period 2002. The Registrar was requested to report on any action taken in this regard to the fourteenth Meeting of States Parties.⁷

3. Budget proposals for 2005-2006

67. At the sixteenth session of the Tribunal, the Committee on Budget and Finance gave preliminary consideration to the budget for 2005-2006.

4. Report on budget performance

68. At its fifteenth session, the Tribunal considered the report presented by the Registrar concerning the budget performance for 2002.

B. Status of contributions

69. As of 31 December 2003, 64 States Parties had made their contributions to the 2003 budget in the full amount assessed, totalling \$4,603,967, while 78 States Parties had not made any payments with respect to their assessed contributions for 2003. The balance of unpaid contributions with respect to the 2003 budget was \$554,405.

70. Furthermore, assessed contributions amounting to \$1,150,927 in respect of the 1996-1997, 1998, 1999, 2000, 2001 and 2002 budgets were still pending as of 31 December 2003.

71. The balance of unpaid contributions with respect to the overall budget of the Tribunal amounted to \$1,705,332. The Registrar sent notes verbales to the States Parties concerned on 19 December 2003, reminding them of their outstanding contributions to the budgets of the Tribunal.

C. Staff assessment fund

72. Following the proposal of the Tribunal, the thirteenth Meeting of States Parties decided that future contributions by States Parties should be assessed on the basis of net salary. The Meeting also decided that the amount in the Staff Assessment Account as of 31 December 2002 should be deducted from the contributions of States Parties for 2004 pro rata to their contributions thereto for each financial year concerned. It further decided that the amount of staff assessment accumulated in the financial year 2003 should be used to reimburse officials and members of the Tribunal for national taxes in respect of remuneration paid by the Tribunal for 2003 and 2004.⁸

73. Furthermore, the Meeting requested the Tribunal to negotiate bilateral agreements concerning tax reimbursements, and to study staff assessment systems used by other international organizations and to propose possible solutions to ensure that States Parties' contributions would not be used to reimburse taxes levied by other States. The Tribunal was requested to report on these matters to the fourteenth Meeting of States Parties.⁹

D. Reports of the Auditor for 2001 and 2002

74. In accordance with the Financial Regulations of the United Nations, which are applicable *mutatis mutandis* to the Tribunal, arrangements were made for the accounts of the Tribunal to be audited by an internationally recognized auditing firm.

75. The audit report for 2001 was submitted by the Tribunal to the thirteenth Meeting of States Parties. The Meeting considered and took note of the report.

76. The audit report for the financial year 2002 was presented by the Registrar at the Sixteenth Session of the Tribunal. The auditor, having reviewed the transactions and operations over that period, was satisfied that the financial statements presented fairly, in all material respects, the financial position of the Tribunal, as of 31 December 2002, and that they were in conformity with generally accepted accounting principles and with the Financial Regulations of the United Nations, which applied *mutatis mutandis*. The Tribunal took note of the audit report for 2002 and requested that the report be submitted to the fourteenth Meeting of States Parties.

77. On the basis of the recommendation of the Committee on Budget and Finance, the Tribunal, at its sixteenth session, authorized the appointment of the auditor for a further year.

E. Financial Regulations

78. The Financial Regulations of the Tribunal were adopted by the thirteenth Meeting of States Parties on 12 June 2003. The Financial Regulations will become effective on 1 January 2004 and will apply to the financial period 2005-2006 and to subsequent financial periods.¹⁰

79. Pursuant to financial regulation 10.1(a), the Registrar should establish, with the approval of the Tribunal, detailed financial rules and procedures in order to ensure effective financial administration and the exercise of economy. During the sixteenth session, the Committee on Budget and Finance undertook a preliminary review of the draft Financial Rules of the Tribunal as prepared by the Registrar. Following their approval by the Tribunal, the draft Financial Rules will be submitted to the Meeting of States Parties for its consideration.

80. In the interim period, the Financial Regulations and Rules of the United Nations continue to apply *mutatis mutandis*.

F. Liability of the Tribunal

81. The thirteenth Meeting of States Parties adopted the proposal of the Tribunal to cover its liability in the event of the death, injury or illness of members of the Tribunal attributable to service with the Tribunal.¹¹

82. During the sixteenth session, the Tribunal took note of the action taken by the Registrar pursuant to the decision of the Meeting of States Parties and decided to review the matter at its next session.

G. Trust funds and donations

83. On 30 October 2000, the General Assembly, in its resolution 55/7 entitled "Oceans and the law of the sea", requested the Secretary-General to establish and administer a voluntary trust fund to assist States in the settlement of disputes through the Tribunal. The trust fund was thereafter established and is operational.

84. As of 31 December 2003, contributions to the trust fund which were made by the Government of the United Kingdom and the Government of Finland amounted to \$55,235.

XIV. Administrative matters

A. Staff Regulations and Rules

85. During the fifteenth and sixteenth sessions, the Registrar reported to the Tribunal on the review of the functioning of the Registry.

86. Upon the recommendation of the Committee on Staff and Administration, the Tribunal, during its fifteenth session, approved amendments to the Staff Regulations of the Tribunal dealing with the salary scale for staff in the Professional and higher categories.

87. During the fifteenth session, the Registrar reported to the Tribunal on amendments to the Staff Rules concerning assignment grant, removal costs and loss of entitlement to unaccompanied shipment or removal expenses, and scale of pensionable remuneration for staff in the Professional and higher categories, as required to ensure compatibility with the United Nations practice. On the basis of the recommendation of the Committee on Staff and Administration, the Tribunal took note of these amendments.

B. Staff recruitment

88. The Tribunal continued the recruitment process for both Professional and General Service staff. At the end of 2003, the status of the recruitment process was as follows:

- (a) Recruitment was completed for one post of Translator at the P-3 level (the successful candidate subsequently declined the offer);
- (b) Recruitment was completed for one General Service post;
- (c) Appointment was offered for two General Service posts.

A list of the staff members of the Tribunal as of 31 December 2003 is contained in annex II to the present report.

89. Temporary personnel were recruited to assist the Tribunal in connection with the *Case concerning Land Reclamation by Singapore in and around the Straits of Johor* and during its fifteenth and sixteenth sessions.

C. Internship programme

90. Modelled on the United Nations internship programme, an internship programme of the Tribunal was established in 1997. During 2003, 21 persons served periods of internship at the Tribunal. A list of the persons who participated in the internship programme during 2003 is contained in annex III to the present report.

91. During its sixteenth session, the Tribunal approved changes to the internship programme based on the recommendation of the Committee on Staff and Administration. At its sixteenth session, the Tribunal also approved the recommendation by the Committee on Staff and Administration to include persons in the programme participating in the Hamilton Shirley Amerasinghe Fellowship on the Law of the Sea, and to make arrangements with the Division for Ocean Affairs and the Law of the Sea of the United Nations for this purpose.

92. At its sixteenth session, the Tribunal took note of the offer made by the Korea International Cooperation Agency regarding the possible funding of participation in the Tribunal's internship programme. The Tribunal requested the Registry to prepare draft criteria for applicants for consideration at its next session.

93. An information sheet and application form concerning the programme can be obtained from the Registry or from the Tribunal's web sites at <http://www.itlos.org> or <http://www.tidm.org>.

XV. Buildings and electronic systems

A. Requirements for the permanent premises

94. During the fifteenth and sixteenth sessions of the Tribunal, the Registrar presented reports to the Tribunal on requirements for the permanent premises, including buildings arrangements, facility management, electronic systems and courtroom technology, which were reviewed by the Committee on Buildings and Electronic Systems.

B. Public access

95. On 14 September 2003, the second open day of the Tribunal was held. With 2,000 visitors to the premises, the open day was deemed a great success. In addition, the building was visited by approximately 2,500 people during organized tours in 2003.

C. Use of the premises

96. The following events were organized on the premises of the Tribunal during 2003:

(a) On 15 March 2003, the International Foundation for the Law of the Sea held a seminar on the theme "Interference with navigation: modern challenges";

(b) On 31 March 2003, a meeting of the heads of the German waterways police was held;

(c) On 11 August 2003, a session of the Summer School of the Zeit Foundation took place;

(d) On 5 and 6 September 2003, a meeting of the Committee on Legal Issues of the Outer Continental Shelf of the International Law Association was held;

(e) On 19 September 2003, the German Federal Bar Association held its annual meeting;

(f) On 29 November 2003, the Diakonisches Werk Hamburg held the opening meeting for the Bread for the World campaign.

XVI. Balance between official languages of the Tribunal

97. The Registrar reported to the Tribunal, at its fifteenth and sixteenth sessions, on steps taken to ensure a balance between the two official languages of the Tribunal. English and French courses for staff members were held at the Tribunal in 2003. German classes for staff members were held on the understanding that classes take place outside working hours and that the reimbursement of the cost of the classes be restricted to 50 per cent for a limited period of two years.

XVII. Library facilities

98. During the fifteenth and sixteenth sessions, the Registrar reported on several matters pertaining to the Library, including the integrated library system, the library catalogue, online databases and the need for increased library space. The Tribunal decided to give further consideration to these issues at its next session.

99. A list of donors to the Library is contained in annex I to the present report.

XVIII. Publications

100. The status of the Tribunal's publications was reviewed by the Committee on Library and Publications during the fifteenth and sixteenth sessions of the Tribunal.

101. During the period under review, the following volumes were published:

- (a) *Yearbook 2001*;
- (b) *ITLOS Reports of Judgments, Advisory Opinions and Orders 2001*.

XIX. Public information and web site

102. The Tribunal publicized its work by means of its web site, press releases and briefings by the Registry and by distribution of its judgments, orders and publications.

103. The web site can be accessed at <http://www.itlos.org> or <http://www.tidm.org>. The texts of the judgments, orders and verbatim records of hearings of the Tribunal are available on the web site, together with other information about the Tribunal.

104. In 2003, judges also delivered addresses and published papers on the work of the Tribunal.

XX. International Foundation for the Law of the Sea

105. On 10 December 2003, the International Foundation for the Law of the Sea was established in Hamburg upon a joint initiative of representatives of trade and industry, the academic world and public institutions, as well as with the support of the Senate of the Free and Hanseatic City of Hamburg and the Government of the Federal Republic of Germany.

106. On that occasion, the President of the Tribunal welcomed the establishment of the Foundation. In his statement, the President observed that the Foundation had been established with the mission of promoting the Tribunal's activities, research and teaching, events and publications and the provision of training opportunities at the seat of the Tribunal, especially for nationals of developing countries.

XXI. Future work

107. The Tribunal decided to hold its seventeenth session from 22 March to 2 April 2004 to deal with organizational and administrative matters and other matters having

a bearing on the judicial work of the Tribunal. It further decided that the tentative dates for the eighteenth session would be 20 September to 1 October 2004.

Notes

- ¹ For the composition of the Special Chamber, see para. 25.
- ² For the terms of reference of the committees, see SPLOS/27, paras. 37-40, and SPLOS/50, paras. 36-37.
- ³ SPLOS/24, para. 27.
- ⁴ German Ordinance on the Privileges and Immunities of the International Tribunal for the Law of the Sea of 10 October 1996.
- ⁵ The text of the statement is available on the Tribunal's web sites at <http://www.itlos.org> or <http://www.tidm.org>.
- ⁶ SPLOS/103, paras. 46, 48 and 49.
- ⁷ SPLOS/103, para. 65.
- ⁸ SPLOS/103, paras. 60 and 61.
- ⁹ SPLOS/103, para. 62.
- ¹⁰ SPLOS/103, para. 68; the Financial Regulations of the Tribunal are contained in document SPLOS/2003/WP.3.
- ¹¹ SPLOS/103, para. 70.

Annex I

List of donors to the Library of the International Tribunal for the Law of the Sea, 2003

Asociación Argentina de Derecho Internacional, Córdoba, Argentina

Mr. Christian-Jürgen Bühring, Egestorf, Germany

Bibliothek des Fachbereichs Wirtschaft und des Instituts für Schiffsbetrieb, Seeverkehr und Simulation, Hamburg

Bundesforschungsanstalt für Fischerei, Hamburg

Mr. Antônio A. Cançado Trindade, President, Inter-American Court of Human Rights, San José

Comité Maritime International, Antwerp

Professor Carlos D. Espósito, Universidad Autónoma de Madrid, Madrid

Division for Ocean Affairs and the Law of the Sea, United Nations, New York

European Commission, Directorate-General for Fisheries, Brussels

Institute of International Public Law and International Relations of Thessaloniki, Thessaloniki

Inter-American Court of Human Rights, San José

Inter-American Institute of Human Rights, San José

Inter-American Tropical Tuna Commission, La Jolla, United States of America

Inter-Parliamentary Union, Geneva

International Court of Justice, The Hague

International Criminal Tribunal for Rwanda, Arusha, United Republic of Tanzania

International Criminal Tribunal for the former Yugoslavia, The Hague

International Maritime Organization, London

International Seabed Authority, Kingston, Jamaica

International Whaling Commission, Cambridge, United Kingdom

Japan Branch of the International Law Association, University of Tokyo, Faculty of Law, Tokyo

Dr. Daniel-Erasmus Khan, Institut für Internationales Recht, Völker- und Europarecht, Ludwig Maximilians Universität München, Munich

Professor Barbara Kwiatkowska, The Netherlands Institute for the Law of the Sea, Utrecht

Professor Dr. Rainer Lagoni, Institut für Seerecht und Seehandelsrecht der Universität Hamburg, Hamburg

Mare, Die Zeitschrift der Meere, Hamburg

Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht,
Heidelberg, Germany

Professor José Luís Moreira da Silva, Faculdade de Direito, Universidade de Lisboa,
Lisbon

Pew Oceans Commission, Arlington, United States of America

The Project on International Courts and Tribunals, New York and London

Professor Alexander Shemyakin, Odessa National Maritime Academy, Ukraine

Professor Dr. Yann-huei Song, Institute of European and American Studies,
Academia Sinica, Taipei

TRAFFIC International, Cambridge, United Kingdom

Turkish Marine Research Foundation, Istanbul

United Nations Conference on Trade and Development, Geneva

University of the Philippines, Quezon City, Philippines

U. S. Naval War College, Newport, United States of America

Dr. Davor Vidas, The Fridtjof Nansen Institute, Lysaker, Norway

Walther-Schücking-Institut für Internationales Recht an der Universität Kiel,
Germany

World Meteorological Organization, Geneva

World Trade Organization, Geneva

Professor Wu Hui, Department of International Politics, University of International
Relations, Beijing

Annex II**Information on staff, 2003****1. Professional and higher**

<i>Name</i>	<i>Designation</i>	<i>Country of nationality</i>	<i>Level of post</i>
Gautier, Philippe	Registrar	Belgium	ASG
Kim, Doo-young	Deputy Registrar	Republic of Korea	D-2
Slark, Garry M.	Chief of Administration	United Kingdom	P-5
Cherif, Lamine	Head of Conference and Linguistic Services	Tunisia	P-5
Schaffer, Ellen	Librarian	United States of America	P-4
Sodhi, Gurpreet S.	Head of Budget and Finance	United States of America	P-4
Skinner, Paul	Translator/Reviser	United Kingdom	P-4
Savadogo, Louis	Legal Officer	Burkina Faso	P-4
Hinrichs, Ximena	Legal Officer	Chile	P-4
Bowes, Elisabeth	Legal Officer	Australia	P-3
Dimassi, Sami	Information Technology Officer	Lebanon	P-3
Vacant	Translator (French)		P-3
Schwarte, Christoph	Associate Administrative Officer (Contributions/ Budget)	Germany	P-2
Vacant	Associate Legal Officer		P-2
Gaba Kpayedo, Kafui	Administrative Officer (Support/Building Management)	Togo	P-2
Vacant	Archivist		P-2

Total Professional and higher posts: 16**2. General Service**

<i>Name</i>	<i>Designation</i>	<i>Country of nationality</i>	<i>Level of post</i>
Vorbeck, Antje	Administrative Assistant (Personnel)	Germany	G-7
Kamps, Irene	Administrative Assistant (Procurement)	Germany	G-7
Bothe, Andreas	Building Coordinator	Germany	G-7
Prieto, Luis	Computer Systems Assistant	Spain	G-7
Pope, Julia	Press Assistant	United Kingdom	G-7
Egert, Anke	Publications/Personal Assistant (Registrar)	Germany	G-7
Sadler, Gerardine	Administrative Assistant	Singapore	G-5

<i>Name</i>	<i>Designation</i>	<i>Country of nationality</i>	<i>Level of post</i>
Winkelmann, Jacqueline	Administrative Assistant (Contributions)	Germany	G-6
Roth, Elizabeth	Conference/Documentation Assistant	Kenya	G-4
Ritter, Roman	Finance Assistant	Germany	G-6
Vacant*	Finance Assistant (Accounts Payable)		G-5
Boschmans, Laure**	Library Assistant	France	G-4
Drews, Svenja**	Library Assistant	Germany	G-4
Albiez, Berit	Linguistic Assistant/Judiciary Support	Germany	G-6
Becker, Martine	Linguistic Assistant/Judiciary Support	France	G-6
Bartlett, Emma	Personnel Assistant	United Kingdom	G-5
Borchert, Anne-Charlotte	Personal Assistant (Deputy Registrar)	France	G-5
Nas, Ellen	Personal Assistant (President)	Netherlands	G-6
Marzahn, Inga	Receptionist	Germany	G-3
Duddek, Sven	Senior Security Officer/Building Superintendent	Germany	G-4
Ntinugwa, Chucks	Security Officer/Driver	Germany	G-3
Vacant*	Security Officer/Driver		G-3

Total General Service posts: 21

* Offer of appointment issued.

** Part-time — 50 per cent occupancy of the post.

Annex III**Information on interns, 2003**

Atmane, Tarik	Morocco	01/09/03-31/10/03
Bah, Mamadou	Guinea	01/10/03-31/11/03
Bodenstedt, Kai	Germany	01/11/02-28/02/03
Hipolyte, Koffi	Côte d'Ivoire	20/03/03-18/06/03
Iwata, Tomoko	Japan	15/02/03-05/04/03
Juchs, Geoffrey	France	01/08/03-30/09/03
Karaman, Igor	Ukraine	01/09/03-15/09/03
Kim, Hyoun Ji	Republic of Korea	01/04/03-30/05/03
Knudsen, Marianne	Denmark	01/09/03-31/10/03
Kropatcheva, Elena	Russian Federation	01/04/03-30/05/03
Launer, Martin	Germany	01/05/03-29/08/03
Lee, Hyung Ki	Republic of Korea	19/06/03-31/07/03
Macangus, Alexander	Canada	15/05/03-29/08/03
Pelosio, Lisa	Italy	06/01/03-28/03/03
Reitz, Timothy	United States	02/06/03-29/08/03
Sackett, Nickolaus	United States	14/02/03-30/04/03
Sarr, Angélique	Senegal	01/08/03-30/09/03
Simons, Daniel	Netherlands	15/01/03-15/04/03
Tyndall, Ryan	United States	02/06/03-18/08/03
Windemüth, Nora	Germany	01/11/03-31/12/03
Zovko, Ivana	Croatia	01/10/03-03/12/03



Meeting of States Parties

Distr.: General
15 April 2004

Original: English

Fourteenth Meeting

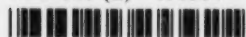
New York, 14-18 June 2004

Report of the External Auditors for the financial year 2002, with financial statements of the International Tribunal for the Law of the Sea as of 31 December 2002¹

Introductory note

1. The ninth Meeting of States Parties, as recorded in the report of the ninth Meeting (SPLOS/48, para. 28), requested the Registrar, pending the entry into force of the Financial Regulations of the Tribunal, to present to the Meeting of States Parties every year a preliminary performance report on the use of the budget appropriations for the preceding year and a final performance report on the use of the budget appropriations for the year prior to the preceding year.
2. Consistent with that decision, the report of the External Auditor for 2002, the year prior to the preceding financial year, is hereby presented.
3. The preliminary performance report of the preceding year (2003) is contained in annex I to the draft budget proposals of the Tribunal for 2005-2006 (SPLOS/2004/WP.1).

¹ The submission of the present document was delayed due to the late receipt of the other document required for reference purposes.



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A. Scope of the Examination

1. We have audited the accompanying financial statements of the

International Tribunal for the Law of the Sea,

Hamburg

(hereinafter also referred to as "the Tribunal" or "ITLOS")

including the statement of assets, liabilities, working capital fund and excess of income over expenditures as of December 31, 2002 (Exhibit II), the statement of income and expenditures for the period from 1 January until 31 December 2002 (Exhibit I) and the Notes to the financial statements for the period 1 January until 31 December 2002 (Exhibit III). Within the audit scope we have additionally audited certain aspects of operating procedures as directed by the President of the International Tribunal for the Law of the Sea as set out in his letter of 17 April 2003 for the year 2002. The financial statements are the responsibility of the Registry of the Tribunal. Our responsibility is to express an opinion on these financial statements and the following aspects of the operational procedures of the Tribunal:

1. whether expenditures incurred have been appropriately authorized by the party designated for that purpose in the Rule of the Tribunal and the Financial Regulations of the United Nations;
 2. whether staff and persons being paid by the Tribunal have been recruited or engaged in the manner provided in the Rules of the Tribunal or the Financial Regulations of the United Nations;
 3. whether goods and services have been procured in accordance with the procedures provided for in the Financial Regulations of the United Nations; and
 4. whether goods and services which have been procured are necessary or not excessive, having regard to circumstances and the functions of the Tribunal.
2. The financial statements as of December 31, 2002, and our audit thereon cover the period from 1 January to 31 December 2002.

3. The International Tribunal for the Law of the Sea applied generally accepted accounting principles and the Financial Regulations and Rules of the United Nations which are applied *mutatis mutandis*.
4. We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis of our opinion.
5. Reference is made to the General Terms for "Wirtschaftsprüfer und Wirtschaftsprüfungsgesellschaften" dated January 1, 2002 and our Special Conditions dated 1 January 2001 (Exhibit VII), in regard to the assignment and our responsibilities, including those to third parties.

B. Budget

6. The Meeting of State Parties, at its 11th Meeting, by its decision on 17 May 2001 approved and appropriated the amount of USD 7,807,500 for the International Tribunal for the Law of the Sea for the period from January, 1 to December 31, 2002, as set out in document SPLOS/70. With a view to providing the Tribunal with the necessary financial means to consider cases in 2002, in particular those requiring expeditious proceedings, the Meeting approves also an amount of USD 894,300 in 2002 as contingency funds of the Tribunal, which shall only be used in the event of cases submitted to the Tribunal. The Meeting also approves an amount of USD 50,000 to be appropriated to the Working Capital Fund in 2002, in order to build up the Working Capital Fund to the recommended level of USD 650,000.
7. The Meeting of State Parties, at its 12th Meeting, by its decision on 25 April 2002, decided that the Tribunal should surrender the savings from the budgets of the Tribunal for 1998, 1999 and 2000. A deduction of the amount of such savings should then be made from the assessed contributions of States Parties for 2003.

The Meeting of States Parties authorized the Tribunal to transfer funds between appropriation sections when it is necessary to deal with cases, which may arise during the budget period 2003. In addition, the 12th meeting on an exceptional basis approved an amount of USD 500,000, being part of savings from the financial period 2001, to be appropriated to the Working Capital Fund of the Tribunal, in order to provide the Tribunal with the necessary financial means, in the event of temporary shortfalls in funds, to consider cases to the extent that the expenditures cannot be met from the Contingency, or from the transfers of funds between appropriation sections.

8. The statement of income and expenditure for the period from 1 January until 31 December 2002 shows an excess of income over expenditure of USD 958,424.
9. Budget estimates are based on the number of cases, whereby only one of the two anticipated cases emerged during the year. In addition, with respect to the Case dealt with by the Tribunal in December 2002, a shorter meeting time for the Judges of the International Tribunal for the Law of the Sea in Hamburg than provided for in the budget resulted in savings in the budget lines.

This explained savings in the areas Contingency Provision (this is a provision made for Tribunal cases, which they might receive during the year), Overtime and Communications

10. Savings in Judges remuneration resulted from a vacancy in the Tribunal at the March session and in addition the contingency pension provision was not fully utilized as five judges were re-elected.
11. Equipment purchased during the year was lower than anticipated due to a scale down of original purchases planned. At the same time the Rental and Maintenance of Equipment was reduced, as expired lease contracts were not renewed as additional equipment was purchased rather than leased.
12. Over-expenditure in the budget line common staff costs is a result of relocation expenses associated with the arrival and departure of staff members. The initial budgetary estimates in the Maintenance of Premises proved to be insufficient and higher costs than anticipated occurred as warranties and initial service contracts provided by the host country came to an end.

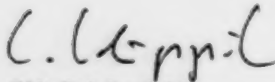
C. Audit Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects the financial position of the International Tribunal for the Law of the Sea, Hamburg, as of December 31, 2002, in conformity with generally accepted accounting principals and with the Financial Regulations of the United Nations which were applied *mutatis mutandis*. The operational procedures of the International Tribunal for the Law of the Sea as detailed in Exhibit VI were in accordance with the Rules and Staff Rules of the International Tribunal for the Law of the Sea and the Financial Regulations and Staff Rules of the United Nations applied *mutatis mutandis*.

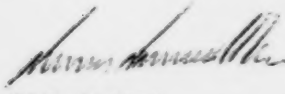
Hamburg, May 16, 2003

PRICEWATERHOUSECOOPERS

GmbH
Wirtschaftsprüfungsgesellschaft



(W. Schöppich)
Wirtschaftsprüfer



(K.V. Rother)
Wirtschaftsprüfer

International Tribunal for the Law of the Sea

Statement of Income and Expenditures for the period from

1 January until 31 December 2002

(Statement 1)

	2002	2001
	USD	USD
Assessed contributions	7.807.500	8.090.900
Other Income		
Interest income (net)	67.057	146.693
Savings on cancellation of prior period obligations	101.066	186.213
Gains/losses (-) on exchange	-88.146	32.133
Miscellaneous Income/expense	86.976	0
Total Income	7.974.453	8.455.939
Expenditure		
Total expenditure and obligations (Exhibit V)	-7.016.029	-6.972.670
Provision for Working Capital Fund Reserve	0	-150.000
Excess of income over expenditure (2001 after provision for the Working Capital Fund Reserve)	958.424	1.333.269

International Tribunal for the Law of the Sea

Statement of Assets, Liabilities, Working Capital Fund and
Excess of Income over Expenditures as at 31 December 2002
(Statement 2)

	2002 USD	2001 USD
ASSETS		
Cash and term deposits	7 573.989	6 849.011
Accounts receivable		
Contributions receivable from States Parties	1 621.500	1 314.164
Tax reimbursement due	155.944	176.302
Accounts receivable - Others	182.732	72.899
TOTAL ASSETS	9.534.165	8.412.376
LIABILITIES		
Contributions received in advance for 2003	625.569	1 186.339
Surrender of savings prior years to States Parties in 2003	2 633.220	0
Obligations - current period	973.410	694.346
Unliquidated obligations - prior periods	0	72.936
Fund account	0	8.784
Korea fund	3.408	3.408
Assessment special account	2 356.865	1 830.074
TOTAL LIABILITIES	6.592.472	3.795.887
Working Capital Fund	1 150.000	650.000
Prior period Gains-Reserve	833.269	2 633.220
Excess of income over expenditure (2001 after provision for the Working Capital Fund Reserve)	958.424	1 333.269
TOTAL RESERVES AND FUND BALANCES	2.941.693	4.616.489
TOTAL LIABILITIES, RESERVES AND FUND BALANCES	9.534.165	8.412.376

International Tribunal for the Law of the Sea

Notes to the Financial Statement for the period 1 January until 31 December 2002

Note 1: Statement of the objectives and activities of the Tribunal

1. The International Tribunal for the Law of the Sea (ITLOS) is an independent international judicial body established by the United Nations Convention on the Law of the Sea to adjudicate disputes arising out of the interpretation and application of the Convention. It began its activities in 1996. The Tribunal is open to States Parties to the Convention and, in certain cases, to entities other than State Parties (such as international organizations and natural or legal persons). The jurisdiction of the Tribunal comprises all disputes submitted to it in accordance with the Convention. It also extends to all matters specifically provided for in any other agreement, which confers jurisdiction on the Tribunal. The Tribunal is composed of 21 independent members elected by secret ballot by the States Parties to the Convention.

Note 2: Summary of significant accounting policies

2. The Fourth Meeting of the States Parties to the United Nations Convention of the Law of the Sea decided that pending the adoption of the Tribunal's Financial Regulations, the Financial Regulations of the United Nations will apply *mutatis mutandis* to the Tribunal. The Tribunal's accounts are therefore currently maintained in accordance with the Financial Regulations and Rules of the United Nations with such modifications as required by the nature and scope of work of the Tribunal.
3. The form of presentation of the accounts, comprising two statements and one Annex (Exhibit V) for the Financial Period ending 31 December 2002, is in line with the formats proposed for use by the agencies of the United Nations system.

Accounting Period

4. The current accounting period being reported on is from 1 January to 31 December 2002.

Currency of accounts

5. The accounting unit is the United States Dollar. The United Nations operational rates of exchange form the basis for establishing the equivalent in United States Dollars of other currencies.

Translation of currencies

6. Differences between the valuation of the currencies when entered into the accounts and when actual transactions are completed are calculated and detailed in these notes as gains and losses on exchange transactions.
7. Periodically, assets and liabilities in currencies other than United States Dollars are revalued for accounting purposes at the prevailing United Nations operational rates of exchange. Any variance due to fluctuation of those rates is accounted for as income or loss in the statement of income and expenditure.

Income

8. Income consists of assessed contributions from the States Parties. All other income received by the Tribunal is classified as miscellaneous income and is included as general resources. - (See note 4)

Expenditure

9. All expenditure of the Tribunal is recorded against allocated lines of budgetary appropriation.
10. Expenditures of the Tribunal are accounted for on an accrual basis, except for those relating to staff entitlements, which are accounted for on the basis of cash disbursements. No provision is made for staff entitlements due to repatriation, accumulated annual leave and compensatory time liability. Reference is made to Note 3: on Contingent liability.

Assets

11. All funds received are deposited into Tribunal's bank accounts, including those under special account arrangements (see Note 6), and reflected as cash holdings. Non-expendable equipment (especially computer hardware and software) is not included in the assets but is charged against the current appropriations when acquired.

Liabilities

12. The liabilities of the Tribunal include contributions received in advance from States Parties for the budget period 2003 of USD 625,569, liquidated and unliquidated obligations of USD 241,243 and USD 732167 (total USD 973,410), special accounts maintained for staff assessment withholdings of USD 2,356,865 and the surrender of savings to States Parties of USD 2,633,220.
13. A special account (Assessment special account) has been maintained for staff assessment withholdings from the gross remuneration of staff in accordance with the applicable scale of the United Nations.
14. The Meeting of States Parties at its 12th meeting on 25 April 2002 decided that the Tribunal will return savings from the 1998, 1999 and 2000 budgets of the Tribunal, which were not credited to the working Capital Fund, to the States Parties. A new account entitled "Surrender of savings prior years to States Parties in 2003" was therefore created to which these savings have been reclassified from the prior period gains reserve accordingly.

Reserves

15. Reserves include funds credited to the Working Capital Fund in the full amount authorized by the Meeting of States Parties as follows:

1999 savings	USD	200.000
2000 appropriations	USD	50.000
2000 savings	USD	200.000
2001 appropriations	USD	50.000
2001 savings	USD	150.000
	USD	<u>650.000</u>

16. Hence the Working Capital Fund has been built up to the level envisaged in the decision of the Eleventh Meeting of States Parties (SPLOS/70 paragraph 3). An additional amount of USD 50,000 approved by the Meeting of States Parties to be appropriated to the Working Capital in the 2002 budget of the Tribunal (SPLOS/70 paragraph 3) was therefore not utilized for the purpose and will be returned to the State Parties as part of the savings from the 2002 budget period (see Exhibit V).

17. The twelfth Meeting of States Parties (SPLOS/89 paragraph 2) on an exceptional basis approved an amount of USD 500,000, being part of savings from the financial period 2001, to be appropriated to the Working Capital Fund of the Tribunal, in order to provide the Tribunal with the necessary financial means, in the event of temporary shortfalls in funds, to consider cases to the extent that the expenditure cannot be met from the Contingency, or from the transfer of funds between appropriation sections.
18. As a consequence of the approved transfer of savings and appropriations in previous years the Working Capital Fund currently stands at USD 1,150,000.

2001 Working Capital Fund	USD	650.000
2001 Additional savings	USD	500.000
TOTAL	USD	<u>1.150.000</u>

Note 3: Contingent liability

19. The net contingent liability for staff benefits as at 31 December 2002 is established at USD 230,267,84 consisting of the following:

Accumulated leave	USD	119.778,39
Compensatory time	USD	1.582,20
Repatriation grant	USD	<u>109.267,25</u>
	USD	<u>230.627,84</u>

20. There is no provision in the accounts for contingent liability. The expenditures will be charged against the budget appropriations of the periods when actual payments are made. In accordance with the Staff Regulation and Rules of the Tribunal the contingent liability reflected above is based on net remuneration.

Note 4: Income

21. The Tribunal's income in the financial period 2002 totalled USD 7,974,453. Income resulted from contributions of 138 States Parties (including the European Community) totalling USD 7,807,500. In addition, income included savings due to the cancellation of prior period obligations in the amount of USD 101,066, net interest income of USD 67,057, German social security payments recovered from staff in the amount of USD 118,310 (see Note 7), which were netted with miscellaneous expenses. Losses due to fluctuations in exchange rates amounted to USD 88,146. Of the total income for 2002 from contributions of the States Parties, an amount of USD 685,397 was outstanding at the end of that Financial Period. With regard to the previous budgets of the Tribunal amounts of USD 73,214 for 1996/97, USD 40,057 for 1998, USD 183,103 for 1999, USD 180,563 for 2000 and USD 459,166 for 2001 were still outstanding. The balance of unpaid contributions with respect to the overall budgets of the Tribunal (1996/97 to 2002) therefore amount to USD 1,621,500. No allowances for doubtful accounts receivable for the overdue balances have yet been considered in the Statement of Assets, Liabilities and Working Capital at 31 December 2002, as the risks associated with these overdue balances are partly offset by the Tribunal's liability for the surrender of savings to the States Parties and further efforts undertaken by the Tribunal to collect the outstanding receivables from the States Parties.

Note 5: Expenditures

22. The Tribunal's expenditures for the Financial Period 2002 totalled USD 7,016,029. There was an over-expenditure in the amount of USD 9,204 arising from the common costs in the budget line 'Remuneration of Judges'. The amount budgeted for common costs proved to be inadequate due to the installation/removal costs incurred with respect to the election of the new President. The overall amount under the 'Judges' section is however within the budgetary provision.
23. There was an over-expenditure due to the fact four new international staff members (three of them with families) joined the Tribunal and two international staff members left the Tribunal. This represents a movement of forty percent of the total professional staff. This situation was further compounded by a negative exchange rate impact, due to a stronger Euro. The over-expenditure under this budget line amounting to USD 104,182 has been offset against savings under the "Staff cost" section and

other income recovered from German social security payments from staff in 2002 (see par. 21 above). Due to the fact that these expenditures represent authorised entitlements of the staff approved by the Meeting of the States Parties, this over expenditure was unavoidable

24. There was an over-expenditure of USD 47,465 due to the fact that the initial budgetary estimates were determined without sufficient experience in the operation of the premises. This was explained to the Meeting of States Parties in the Budget proposal 2003. These estimates were inadequate for the utilities and maintenance contracts. While economies were made in some areas, an over-expenditure could not be avoided. The overall amount under 'Operating expenditures' section is however within the budgetary provision.

Note 6: Assets

25. Contributions receivable from States Parties as at 31 December 2002 amount to a total of USD 1,621,500.
26. As at 31 December 2002, cash totaled USD 7,573,989. Included in this amount is a special account for staff assessments of USD 1,875,880. Staff assessment is a form of internal taxation on the salaries of officials employed by the organizations of the United Nations system. It is used to reimburse staff members whose salaries are subject to national income tax. For this purpose the Tribunal has maintained a Staff Assessment Account, which currently stands at USD 2,356,865. These amounts included in the total cash balance are not expendable resources of the Tribunal. The amount placed in the staff assessment account is the subject of a proposal to be discussed at the Thirteenth Meeting of the State Parties in New York from 9 to 13 June 2003.
27. The aggregate of accounts receivable, advances and deposits as at 31 December 2002 totalled USD 9,534,165.

Note 7: German Social Security Payments

28. On the basis of the German government's confirmation that the United Nations Staff Pension Fund provides for adequate benefits, the practice to reimburse German or German resident staff members insured under the statutory social insurance system for the employer's share (50%) to the pension scheme was discontinued with effect from 1 January 2002. The staff members concerned applied for the return of all payments to the German pension scheme since 1 July 1997. Following receipt of the respective amounts the employer's share, subject to a deductible equivalent to the amount of interest that could have accrued on the contributions made to the German pension scheme, was reimbursed to the Tribunal. The applicable interest rates for this purpose were calculated on the basis of the German Federal Bank's statistical overview on annual interest rates. A total of USD 66,453 was already recovered from staff members during the course of 2002. An additional amount of USD 51,857 is included in "accounts receivable - other" and will be collected in 2003 from the staff members.

Note 8: Prior Period Gains-Reserve

29. The audited Financial Statements of 1998, 1999 and 2000 showed a net gain of income over-expenditure in the amount of USD 2,633,220. Under the United Nations Financial Regulations, which the Tribunal applies *mutatis mutandis*, this amount should be surrendered by adjusting the States Parties Assessment of Contributions for the following Financial Periods. In view of the outstanding contributions and the need to build up the Working Capital Fund to an operational level and as noted in the 1999 and 2000 Financial Statements the surrender has previously been deferred. The total amount to be surrendered with regard to the 1996/97 to 2000 financial periods had been kept in a separate account. The matter was placed before the Twelfth Meeting of States Parties. The Meeting of States Parties decided that savings indicated above should be surrendered in compliance with the Financial Regulations of the United Nations and be deducted from the assessed contributions of States Parties for 2003.

International Tribunal for the Law of the Sea

Financial Report for the Financial Period

1 January - 31 December 2002

Introduction

1. The Registrar of the Tribunal for the Law of the Sea submits herewith the Financial Report for the Financial Period from 1 January to 31 December 2002. This is the sixth Financial Period and the sixth Financial Report of the International Tribunal for the Law of the Sea (ITLOS).
2. The Financial Report includes the Statement of Income and Expenditures (Statement 1), the Statement of Assets and Liabilities (Statement 2), the Notes to the Financial Statements, and Annex I (Exhibit V). Of these, Statements 1 and 2 are presented to facilitate review by States Parties to the Convention on the Law of the Sea. They are in line with the formats agreed for the harmonization of the accounts of agencies and organizations in the United Nations common system. The Financial Report provides the financial results of ITLOS activities in 2002. Highlights are summarized in the following paragraphs:

Income

3. ITLOS income in the Financial Period 2002 totalled assessed contributions of USD 7,807,500. Income resulted from contributions of 138 States Parties (including the European Community) at the end of 2002. Of the total income from contributions for 2002 an amount of USD 685,397 was outstanding as at 31 December 2002. The balance of unpaid contributions with respect to the overall budget of the Tribunal (1996 to 2002) amounted to USD 1,621,500 on that date. In addition to the above there was other net income in the total amount of USD 166,953 from different sources like interest income, German social security payments recovered and the cancellation of prior period obligations and exchange losses.

Expenditure

4. ITLOS expenditure for the Financial Period 2002 was USD 7,016,029. There were certain savings due to the non-utilization of the Contingency and the Working Capital Fund and the optimizing of resources.

Special accounts

5. A special account was maintained for staff assessment withholding from 1996 to 2002. In addition, a separate special account was also maintained for savings from the 1998 to 2000 budgets of the Tribunal, which will be deducted from the assessed contributions of the States Parties for 2003.

Working Capital Fund

6. The Twelfth Meeting of States Parties (SPLOS/89 paragraph 2) on an exceptional basis approved an amount of USD 500,00, being part of savings from the financial period 2001 to be appropriated to the Working Capital Fund of the Tribunal, in order to provide the Tribunal with necessary financial means, in the event of temporary shortfalls in funds, to consider cases to the extent that the expenditure cannot be met from the Contingency, or from the transfer of funds between appropriation sections. As a consequence of the approved transfer of savings and appropriations in previous years the Working Capital Fund currently stands at USD 1,150,000.

Institutional arrangements

7. The financial records of the Tribunal were maintained in the network version of the Sun computerized accounting system which was fully implemented in 2002.



Philippe Gautier
Registrar

EXPENDITURE REPORT 2002
(in US Dollars)

	Objects of expenditure	Approved Budget 2002	Disbursements (as at 31/12/2002)	Unliquidated Obligations (as at 31/12/2002)	Total	Balance	Total Exp./ Appr. Budget %	
1	RECURRENT EXPENDITURE							1
2	Remuneration of Judges							2
3	Annual allowances	1,295,100	1,288,742	18,562	1,304,304	-9,204	100,71	3
4	Special allowances	318,000	306,599	0	306,599	11,401	96,41	4
5	Travel of Judges to meetings	120,000	110,902	595	111,487	8,513	92,91	5
6	Judges' Pension Scheme	75,000	45,828	5,478	51,306	23,694	68,41	6
7	Staff Costs							7
8	Established posts	2,187,700	1,852,091	538,849	2,190,650	-2,950	100,13	8
9	Common staff costs	729,200	786,361	87,001	833,362	-104,162	114,28	9
10	Overtime	50,300	8,611	19,228	28,839	21,461	57,33	10
11	Temporary assistance for meetings	129,100	91,868	0	91,868	37,232	71,16	11
12	General temporary assistance	100,000	90,673	4,185	94,858	5,132	94,87	12
13	Training	30,000	24,990	0	24,990	5,010	83,30	13
14	Representation allowance	7,800	7,309	0	7,309	291	93,17	14
15	Official travel	84,700	82,303	10,806	73,212	21,488	77,31	15
16	Hospitality	7,100	3,280	342	3,622	3,478	51,01	16
17	Operating Expenditures							17
18	Maintenance of premises (incl. Facility manage- ment and contractual services)	888,300	880,952	65,213	745,765	-47,465	108,80	18
19	Rental & maintenance of equipment	207,000	101,367	36,752	138,119	68,881	66,72	19
20	Communications	146,000	62,664	6,765	69,429	76,571	47,55	20
21	Misc. services & charges (incl. bank charges)	25,000	19,779	0	19,779	5,221	79,12	21
22	Supplies and Services	85,000	29,784	15,935	45,729	39,271	53,80	22
23	Special services (external audit)	17,700	0	13,500	13,500	4,200	76,27	23
24	Library & related costs							24
25	Library - procurement of books and publications	75,000	53,036	21,398	74,432	568	99,24	25
26	Start-up costs of library	50,000	42,221	13,121	55,342	4,658	92,24	26
27	External printing and binding	64,600	8,873	55,727	64,600	0	100,00	27
28								28
29	NON-RECURRENT EXPENDITURE							29
30	Furniture and equipment							30
31	Purchase of equipment	310,000	58,759	180,851	237,610	72,390	76,65	31
32	Purchase of special equipment	30,800	0	17,379	17,379	13,421	56,43	32
33								33
34	CONTINGENCY FUND	594,300	227,526	184,383	411,909	482,391	46,06	34
35								35
36	WORKING CAPITAL FUND	50,000	0	0	0	50,000	0,00	36
	TOTAL	7,807,500	5,743,058	1,272,971	7,016,029	791,471	89,86	

International Tribunal for the Law of the Sea

Audit Procedures and Results of the Additional Audit Scope

As directed by the President of the International Tribunal for the Law of the Sea and set out in his letter dated 17 April 2003, we have audited the following aspects of operational procedures in addition to our audit of the financial statements as of 31 December 2002:

1. whether expenditures incurred have been appropriately authorized by the party designated for that purpose in the Rule of the Tribunal and the Financial Regulations of the United Nations;
2. whether staff and persons being paid by the Tribunal have been recruited or engaged in the manner provided in the Rules of the Tribunal or the Financial Regulations of the United Nations;
3. whether goods and services have been procured in accordance with the procedures provided for in the Financial Regulations of the United Nations; and
4. whether goods and services which have been procured are necessary or not excessive, having regard to circumstances and the functions of the Tribunal.

As part of our audit of the financial statements the following additional procedures have been performed by us:

a. Authorization of expenditures

As instructed, we have reviewed the procedures for the authorization of expenditures as outlined in the Financial Regulations of the United Nations, and tested on a sample basis if these procedures have been strictly followed by the Tribunal in all material respects.

As a result of the work done, no significant matter came to our attention. In our opinion the procedures for the authorization of expenditures were carried out in accordance with the Financial Regulations of the United Nations.

b. Procedures for recruiting/engaging staff

We have reviewed if the procedures for recruiting/engaging staff are in line with the Staff Regulations of the International Tribunal and United Nations staff rules and selected for testing the recruitment procedures for two new employees engaged in 2002.

As a result of the work done, no significant matters arose. In our opinion we believe that the Tribunal has carried out the procedures for recruiting staff in accordance with the Rules of the Tribunal and the Financial Regulations and staff rules of the United Nations.

c. Procedures for procurement of goods and services

We reviewed if the procedures followed by the Tribunal in the order process were in line with the Financial Regulations of the United Nations (i.e. include request of bids or tenders, fair analysis of tenders, written contracts etc.) and tested on a sample basis, that these procedures have been considered in all material respects by the Tribunal.

As a result of the work done, no significant matters came to our attention. In our opinion the procedures for procurement of goods and services were carried out in accordance with the Financial Regulations of the United Nations.

d. Examined whether goods and services procured are necessary or not excessive, having regard to circumstances and the functions of the Tribunal

As part of our audit we have examined, (1) if the expenditures reported for the fiscal year have been properly included in the Statement of income and expenditures and have been charged to the appropriate budget line, (2) if the goods and services procured were necessary or not excessive with regard to circumstances and the functions of the Tribunal.

As a result of our work we noted certain minor over-expenditures within the budget lines Judges Pension Scheme and Maintenance for the Premises. The over expenditures were not excessive high, could be reasonably explained by the Tribunal and were compensated by savings under compatible budget lines. The equipment acquired is duly listed in the inventory and is being used as required by the circumstances and the functions of the Tribunal.

[Translator's notes are in square brackets]

General Engagement Terms

for

Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften

[German Public Auditors and Public Audit Firms]

as of January 1, 2002

This is an English translation of the German text, which is the sole authoritative version

1. Scope

(1) These engagement terms are applicable to contracts between Wirtschaftsprüfer [German Public Auditors] or Wirtschaftsprüfungsgesellschaften [German Public Audit Firms] (hereinafter collectively referred to as the "Wirtschaftsprüfer") and their clients for audits, consulting and other engagements to the extent that something else has not been expressly agreed to in writing or is not compulsory due to legal requirements.

(2) If, in an individual case, as an exception contractual relations have also been established between the Wirtschaftsprüfer and persons other than the client, the provisions of No. 9 below also apply to such third parties.

2. Scope and performance of the engagement

(1) Subject of the Wirtschaftsprüfer's engagement is the performance of agreed services – not a particular economic result. The engagement is performed in accordance with the Grundsätze ordnungsgemäßer Berufsausübung [Standards of Proper Professional Conduct]. The Wirtschaftsprüfer is entitled to use qualified persons to conduct the engagement.

(2) The application of foreign law requires – except for financial attestation engagements – an express written agreement.

(3) The engagement does not extend – to the extent it is not directed thereto – to an examination of the issue of whether the requirements of tax law or special regulations, such as, for example, laws on price controls, laws limiting competition and Bewirtschaftungsrecht [laws controlling certain aspects of specific business operations] were observed; the same applies to the determination as to whether subsidies, allowances or other benefits may be claimed. The performance of an engagement encompasses auditing procedures aimed at the detection of the defalcation of books and records and other irregularities only if during the conduct of audits grounds therefor arise or if this has been expressly agreed to in writing.

(4) If the legal position changes subsequent to the issuance of the final professional statement, the Wirtschaftsprüfer is not obliged to inform the client of changes or any consequences resulting therefrom.

3. The client's duty to inform

(1) The client must ensure that the Wirtschaftsprüfer – even without his special request – is provided, on a timely basis, with all supporting documents and records required for and is informed of all events and circumstances which may be significant to the performance of the engagement. This also applies to those supporting documents and records, events and circumstances which first become known during the Wirtschaftsprüfer's work.

(2) Upon the Wirtschaftsprüfer's request, the client must confirm in a written statement drafted by the Wirtschaftsprüfer that the supporting documents and records and the information and explanations provided are complete.

4. Ensuring independence

The client guarantees to refrain from everything which may endanger the independence of the Wirtschaftsprüfer's staff. This particularly applies to offers of employment and offers to undertake engagements on one's own account.

5. Reporting and verbal information

If the Wirtschaftsprüfer is required to present the results of his work in writing, only that written presentation is authoritative. For audit engagements the long-form report should be submitted in writing to the extent that nothing else has been agreed to. Verbal statements and information provided by the Wirtschaftsprüfer's staff beyond the engagement agreed to are never binding.

6. Protection of the Wirtschaftsprüfer's intellectual property

The client guarantees that expert opinions, organizational charts, drafts, sketches, schedules and calculations – especially quantity and cost computations – prepared by the Wirtschaftsprüfer within the scope of the engagement will be used only for his own purposes.

7. Transmission of the Wirtschaftsprüfer's professional statement

(1) The transmission of a Wirtschaftsprüfer's professional statements (long-form reports, expert opinions and the like) to a third party requires the Wirtschaftsprüfer's written consent to the extent that the permission to transmit to a certain third party does not result from the engagement terms. The Wirtschaftsprüfer is liable (within the limits of No. 9) towards third parties only if the prerequisites of the first sentence are given.

(2) The use of the Wirtschaftsprüfer's professional statements for promotional purposes is not permitted; an infringement entitles the Wirtschaftsprüfer to immediately cancel all engagements not yet conducted for the client.

8. Correction of deficiencies

(1) Where there are deficiencies, the client is entitled to subsequent fulfillment [of the contract]. The client may demand a reduction in fees or the cancellation of the contract only for the failure to subsequently fulfill [the contract]; if the engagement was awarded by a person carrying on a commercial business as part of that commercial business, a government-owned legal person under public law or a special government-owned fund under public law, the client may demand the cancellation of the contract only if the services rendered are of no interest to him due to the failure to subsequently fulfill [the contract]. No. 9 applies to the extent that claims for damages exist beyond this.

(2) The client must assert his claim for the correction of deficiencies in writing without delay. Claims pursuant to the first paragraph not arising from an intentional tort cease to be enforceable one year after the commencement of the statutory time limit for enforcement.

(3) Obvious deficiencies, such as typing and arithmetical errors and formelle Mängel [deficiencies associated with technicalities] contained in a Wirtschaftsprüfer's professional statements (long-form reports, expert opinions and the like) may be corrected – and also be applicable versus third parties – by the Wirtschaftsprüfer at any time. Errors which may call into question the conclusions contained in the Wirtschaftsprüfer's professional statements entitle the Wirtschaftsprüfer to withdraw – also versus third parties – such statements. In the cases noted the Wirtschaftsprüfer should first hear the client, if possible.

9. Liability

(1) The liability limitation of § 323 (2) [“paragraph 2”] HGB [“Handelsgesetzbuch” German Commercial Code] applies to statutory audits required by law.

(2) Liability for negligence. An individual case of damages

If neither No. 1 is applicable nor a regulation exists in an individual case, pursuant to § 54a (1) no. 2 WPO [“Wirtschaftsprüferordnung” Law regulating the Profession of Wirtschaftsprüfer] the liability of the Wirtschaftsprüfer for claims of compensatory damages of any kind – except for damages resulting from injury to life, body or health – for an individual case of damages resulting from negligence is limited to € 4 million; this also applies if liability to a person other than the client should be established. An individual case of damages also exists in relation to a uniform damage arising from a number of breaches of duty. The individual case of damages encompasses all consequences from a breach of duty without taking into account whether the damages occurred in one year or in a number of successive years. In this case multiple acts or omissions of acts based on a similar source of error or on a source of error of an equivalent nature are deemed to be a uniform breach of duty if the matters in question are legally or economically connected to one another. In this event the claim against the Wirtschaftsprüfer is limited to € 5 million. This limitation to the fivefold of the minimum amount insured does not apply to compulsory audits required by law.

(3) Preclusive deadlines

A compensatory damages claim may only be lodged within a preclusive deadline of one year of the rightful claimant having become aware of the damage and of the event giving rise to the claim – of the very latest, however, within 5 years subsequent to the event giving rise to the claim. The claim expires if legal action is not taken within a six month deadline subsequent to the written refusal of acceptance of the indemnity and the client was informed of this consequence. The right to assert the bar of the preclusive deadline remains unaffected. Sentences 1 to 3 also apply to legally regulated audits with statutory liability limits.

10. Supplementary provisions for audit engagements

- (1) A subsequent amendment or abridgement of the financial statements or management report audited by a Wirtschaftsprüfer and accompanied by an auditor's report requires the written consent of the Wirtschaftsprüfer even if these documents are not published. If the Wirtschaftsprüfer has not issued an auditor's report, a reference to the audit conducted by the Wirtschaftsprüfer in the management report or elsewhere specified for the general public is permitted only with the Wirtschaftsprüfer's written consent and using the wording authorized by him.
- (2) If the Wirtschaftsprüfer revokes the auditor's report, it may no longer be used. If the client has already made use of the auditor's report, he must announce its revocation upon the Wirtschaftsprüfer's request.
- (3) The client has a right to 5 copies of the long-form report. Additional copies will be charged for separately.

11. Supplementary provisions for assistance with tax matters

- (1) When advising on an individual tax issue as well as when furnishing continuous tax advice, the Wirtschaftsprüfer is entitled to assume that the facts provided by the client – especially numerical disclosures – are correct and complete; this also applies to bookkeeping engagements. Nevertheless, he is obliged to inform the client of any errors he has discovered.
- (2) The tax consulting engagement does not encompass procedures required to meet deadlines, unless the Wirtschaftsprüfer has explicitly accepted the engagement for this. In this event the client must provide the Wirtschaftsprüfer, on a timely basis, all supporting documents and records – especially tax assessments – material to meeting the deadlines, so that the Wirtschaftsprüfer has an appropriate time period available to work therewith.
- (3) In the absence of other written agreements, continuous tax advice encompasses the following work during the contract period:
 - a) preparation of annual tax returns for income tax, corporation tax and business tax, as well as net worth tax returns on the basis of the annual financial statements and other schedules and evidence required for tax purposes to be submitted by the client
 - b) examination of tax assessments in relation to the taxes mentioned in (a)
 - c) negotiations with tax authorities in connection with the returns and assessments mentioned in (a) and (b)
 - d) participation in tax audits and evaluation of the results of tax audits with respect to the taxes mentioned in (a)
 - e) participation in Einspruchs- und Beschwerdeverfahren [appeals and complaint procedures] with respect to the taxes mentioned in (a)

In the afore-mentioned work the Wirtschaftsprüfer takes material published legal decisions and administrative interpretations into account.

- (4) If the Wirtschaftsprüfer receives a fixed fee for continuous tax advice, in the absence of other written agreements the work mentioned under paragraph 3 (d) and (e) will be charged separately.
- (5) Services with respect to special individual issues for income tax, corporate tax, business tax, valuation procedures for property and net worth taxation, and net worth tax as well as all issues in relation to sales tax, wages tax, other taxes and duties require a special engagement. This also applies to:
 - a) the treatment of nonrecurring tax matters, e. g. in the field of estate tax, capital transactions tax, real estate acquisition tax
 - b) participation and representation in proceedings before tax and administrative courts and in criminal proceedings with respect to taxes, and
 - c) the granting of advice and work with respect to expert opinions in connection with conversions of legal form, mergers, capital increases and reductions, financial reorganizations, admission and retirement of partners or shareholders, sale of a business, liquidations and the like.

(6) To the extent that the annual sales tax return is accepted as additional work, this does not include the review of any special accounting prerequisites nor of the issue as to whether all potential legal sales tax reductions have been claimed. No guarantee is assumed for the completeness of the supporting documents and records to validate the deduction of the input tax credit.

12. Confidentiality towards third parties and data security

- (1) Pursuant to the law the Wirtschaftsprüfer is obliged to treat all facts that he comes to know in connection with his work as confidential, irrespective of whether these concern the client himself or his business associations, unless the client releases him from this obligation.
- (2) The Wirtschaftsprüfer may only release long-form reports, expert opinions and other written statements on the results of his work to third parties with the consent of his client.
- (3) The Wirtschaftsprüfer is entitled – within the purposes stipulated by the client – to process personal data entrusted to him or allow them to be processed by third parties.

13. Default of acceptance and lack of cooperation on the part of the client

If the client defaults in accepting the services offered by the Wirtschaftsprüfer or if the client does not provide the assistance incumbent on him pursuant to No. 3 or otherwise, the Wirtschaftsprüfer is entitled to cancel the contract immediately. The Wirtschaftsprüfer's right to compensation for additional expenses as well as for damages caused by the default or the lack of assistance is not affected, even if the Wirtschaftsprüfer does not exercise his right to cancel.

14. Remuneration

- (1) In addition to his claims for fees or remuneration, the Wirtschaftsprüfer is entitled to reimbursement of his outlays: sales tax will be billed separately. He may claim appropriate advances for remuneration and reimbursement of outlays and make the rendering of his services dependent upon the complete satisfaction of his claims. Multiple clients awarding engagements are jointly and severally liable.
- (2) Any set off against the Wirtschaftsprüfer's claims for remuneration and reimbursement of outlays is permitted only for undisputed claims or claims determined to be legally valid.

15. Retention and return of supporting documentation and records

- (1) The Wirtschaftsprüfer retains, for seven years, the supporting documents and records in connection with the completion of the engagement – that had been provided to him and that he has prepared himself – as well as the correspondence with respect to the engagement.
- (2) After the settlement of his claims arising from the engagement, the Wirtschaftsprüfer, upon the request of the client, must return all supporting documents and records obtained from him or for him by reason of his work on the engagement. This does not, however, apply to correspondence exchanged between the Wirtschaftsprüfer and his client and to any documents of which the client already has the original or a copy. The Wirtschaftsprüfer may prepare and retain copies or photocopies of supporting documents and records which he returns to the client.

16. Applicable law

Only German law applies to the engagement, its conduct and any claims arising therefrom.

Special Conditions

Governing the Raising of the Limit of Liability defined
in the General Terms of Engagement for
Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften
as amended January 1, 2001

Instead of the lower liability limit for single cases defined in section 9 (2) of the enclosed General Terms of Engagement a uniform limit of Euro 10 million shall apply.

Where the Client is of the opinion that the engagement involves a risk significantly in excess of Euro 10 million, we are prepared to raise the limit on our liability to a reasonable amount in exchange for an adequate increase in our fees, provided that insurance cover can be obtained.

The above shall not apply where a higher or lower limit on liability for professional services is prescribed by law, e.g. for a statutory audit.

Where a loss is due to several causes, we shall be liable only if our negligence or the negligence of our staff has contributed to the loss, and only for the proportion of the loss corresponding to the extent of such contribution, subject to the agreed limit on our liability; this provision shall apply in particular to all engagements to be performed jointly with other members of the profession.

In addition to section 7 (1) of the General Terms of Engagement we point out that a limitation of our liability agreed with our client will also apply to any third party who is affected by the engagement.

Exclusive place of jurisdiction for any action or other legal proceedings arising out of or in connection with this engagement shall be the court competent for the office in charge for this engagement.